

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Patent Application

Inventor(s): **Iqbal Jami
Paul William Piggini**

Case: **4-2**

Serial No.: **10/662917** Group Art Unit: **2617**

Filing Date: **September 15, 2003**

Examiner: **Huy C. Ho**

Title: **A Method Of Transfer Of A Call Connection Connecting A
Telecommunications Base Station And A Mobile User Terminal
Between Dedicated And Shared Channels, And A Corresponding
Telecommunications System**

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APPEAL BRIEF UNDER 37 C.F.R. 41.37

This is an Appeal Brief in response to the Advisory Action mailed February 5, 2010, pertaining to claims 1-3, 5-8 and 10-16. A Notice of Appeal from the Final Office Action was timely filed on February 23, 2010. Appellant submits herewith the Brief on Appeal as required by 37 CFR 41.37 along with appropriate fees as required by 37 CFR 41.20(b)(2).

i) Real party-in-interest

The real party-in-interest is Alcatel-Lucent USA Inc., 600 Mountain Ave., Murray Hill, NJ 07974-0636, i.e., the owner of the entire interest in the application-at-issue.

ii) Related appeals and interferences

Appellants do not know of any prior or pending Appeals, Interferences, or Judicial Proceedings directly related to, directly affecting, directly affected by, or have a bearing on the Board's decision in this Appeal.

iii) Status of claims

Claims 1-3, 5-8 and 10-16 are rejected under 35 U.S.C. 103(a) for obviousness over Winberg (GB 2369003) in view of Helmersson (WO 02/067606) and further in view of Vielen (US 6,978,143). Claims 4 and 9 were previously cancelled. Claims 1-3, 5-8 and 10-16 are being appealed.

iv) Status of Amendments

A Request for Reconsideration was filed 25 January 2010 and the amendments made in the Request for Reconsideration dated 25 January 2010 have been entered. The claims appendix reflects the claims of the 25 January 2010 Request for Reconsideration.

v) Summary of Claimed Subject Matter

For ease of reference, non-limiting reference numerals, Figures, and text citations are mentioned below. The reference numerals, Figures, and text citations relate to exemplary features.

Independent claim 1 relates to a method of transfer of a call connection connecting a telecommunications base station (4,6) and a mobile user terminal (8,10) between dedicated channels in both directions therebetween and shared channels in both directions therebetween. The method comprises: determining amount of data buffered at the base station and the user terminal for transmission therebetween and/or rate that data arrives at the base station and the user terminal for transmission therebetween (see e.g. page 5 lines 6 to 11); determining a value of a measured parameter of signals between the base station and the user terminal, the parameter being signal attenuation or propagation delay (see e.g. page 5 lines 12-16); and determining whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received (see e.g. page 6 lines 17-26). The method also comprises deciding to make the transfer, dependent upon said value (14) and upon said amount or rate (16), and upon said mode determined (see e.g. page 6 lines 21-26).

Independent apparatus claim 6 relates to a telecommunications system (2) comprising a base station (4,6) and a mobile user terminal (8), the base station and the user terminal being in use in call connection over dedicated channels or shared channels.

The base station comprises decision means (12), a channel allocator (20), and a processor (22). The decision means (12) is operative to control transfer of the call connection by the channel allocator (20) between the dedicated channels and the shared channels dependent upon:

a first input signal (14,16) to the decision means indicating amount of data buffered at the base station and the user terminal for transmission therebetween (14) and/or rate that data arrives at the base station and the user terminal for transmission therebetween (16) (see e.g. page 5 lines 6 to 11);

a second input signal (18) to the decision means indicating value of a measured parameter of signals between the base station and the user terminal, the parameter being signal attenuation or propagation delay, the parameter value being determined by the processor (see e.g. page 5 lines 12-16); and

a third input signal to the decision means indicating whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received (see e.g. page 6 lines 17 to 26).

Independent apparatus claim 11 relates to a radio network controller (4) comprising decision means (12), a channel allocator (20), and a determinator (22).

The decision means (12) is adapted to control transfer of a call connection via the channel allocator (20) between dedicated channels and shared channels dependent upon: a first input signal (14,16) indicating an amount of data buffered for transmission (14), a rate that data arrives for transmission (16), or both the amount of data buffered for transmission and the rate that data arrives for transmission (see e.g. page 5 lines 6 to 11); a second input signal (18) indicating a value of a parameter, the parameter being signal attenuation or propagation delay of transmitted signals, the value of the parameter being determined by the determinator (see e.g. page 5 lines 12-16); and a third input signal indicating whether or not the shared channels operate in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received (see e.g. page 6 lines 17 to 26).

vi) Grounds of rejection to be reviewed on appeal

Whether claims 1-3, 5-8 and 10-16 are obvious under 35 USC 103 over the combination of Winberg (i.e. GB patent publication GB2369003) in view of Helmersson

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(i.e. International (P.C.T.) patent publication WO02/067606) and further in view of Vialen (i.e. US patent 6,978,143).

vii) Argument

In Grounds of Rejection, the obviousness rejections of claims 1-3, 5-8 and 10-16 over Winberg, Helmerson and Vialen are improper.

Claim 1

(1) The obviousness rejection is improper, because it relies on a combination of Winberg, Helmerson and Vialen to provide a feature of claim 1 not taught or suggested by that combination.

Claim 1 recites, in part, “determining whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received” and “deciding to make the transfer, dependent upon said value and upon said amount or rate, and upon said mode determined. Accordingly, the result of the determination of whether or not the shared channels are in mode in which acknowledgement of receipt is required is utilized in deciding to make the transfer.

The cited Winberg, Helmerson and Vialen fail to teach or suggest the recited feature in claim 1 of determining whether or not the shared channels are in a mode requiring acknowledgement of the data and deciding whether to make a transfer between dedicated and shared channels dependent on the result of that determination. Accordingly, Applicant requests withdrawal of the rejection and allowance of the claim.

The Examiner acknowledges that Winberg, modified by Helmerson, does not show a shared channel in a mode in which an acknowledgement is required but alleges that Vialen teaches a system that makes a decision for use of common channel or dedicated channel based on acknowledgement received in common channel RACH/RACH. See the Final office action dated 25 November 2009, page 5, 2nd full paragraph et seq.

(2) Vielen does not disclose the feature alleged.

Vielen apparently teaches a shared channel for which a control signal is required to switch to a dedicated channel. See column 2 lines 55-59. However, Vielen fails to teach or suggest deciding to make the transfer between channels dependent on whether there is an acknowledgement (of receipt of the data) mode and whether that mode is on or off. Vielen teaches deciding to make a transfer between a dedicated channel and a shared channel based on a plurality of other selection parameters, see e.g., Vielen column 4 lines 4 to 12, which refers to the decision being based on

“size of data packet; amount of data in RLC buffers or information
obtained from higher layers about the amount of data to be transferred,
bit rate required,
allowable transfer delay,
priority or importance of the data to be transferred,
channel load,
power level required for the transfer on the RACH, and
maximum packet size transferable on the RACH.”

Further, Vielen also teaches the decision to use a shared channel or a dedicated channel being made with no radio interface signalling being required, see column 2 lines 61 to 63.

In sharp contrast, the claimed invention relates to deciding whether to transfer between channels based on determining whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received. Based on the mode determined (and other determined variable values), the claimed method decides to make the transfer.

Page 6 lines 17-26 (i.e., last paragraph of the specification, namely paragraph [0026]) of the Applicant's application recognizes that in an acknowledgement mode, more traffic will result. The response to argument section of the office action notes Applicant's paragraph [0026] and appears to allege

since Vielen discloses a system in which acknowledgements may be transferred on the forward link access channel (FACH), and Vielen teaches

deciding to make a transfer between a dedicated channel and a shared channel based on a plurality of selection parameters,

Vialen teaches and discloses the decision based on a plurality of channel parameters, including when the common channel experiences more signal acknowledgements. See the office action dated 25 November 2009, page 5, 2nd full paragraph et seq.

However, Vialen fails to disclose or suggest that status of the acknowledgement mode (i.e., whether or not the shared channels require an acknowledgement of receipt to be received back before data is assumed to have been correctly received) being utilized as a parameter in the transfer between channels. In sharp contrast, as noted above, the claimed invention relates to deciding whether to transfer between channels based on determining whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received. Based on the mode determined (and other determined variable values), the claimed method decides to make the transfer.

(3) Neither Winberg nor Helmersen provide the missing feature.

In addition, Winberg teaches deciding to make the transfer dependent upon other factors, not all those recited by the claimed invention. Specifically, Winberg teaches deciding whether to transfer between dedicated and shared channels based on buffer level threshold values, data throughput level threshold values, and time values, see Winberg column 4 lines 23-24 and column 5 lines 24-26. Helmersen is directed to a switching scheme in which users that are close to a base station are allocated a downlink shared channel in order to save channelization codes in the system, whereas users that are far from a base station are allocated a downlink dedicated channel in order to conserve transmission power. See Helmersen Abstract. Neither Winberg nor Helmersen suggest determining whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received for the determination of whether to switch between dedicated and shared channels.

Accordingly, the Applicant respectfully submits that the cited references fail to teach or suggest this claim feature and asserts that claim 1 is patentable. Therefore,

Applicant respectfully requests that the Board reverse the Examiner's rejection of this claim under 35 USC 103.

Claims 2 to 3, 5

Claims 2, 3 and 5 depend from and include all the limitations of base claim 1. Accordingly, dependent claims 2, 3 and 5 are patentable not least on the basis that they each depend on an allowable independent claim 1. Therefore, Applicant respectfully requests that the Board reverse the Examiner's rejection under 35 USC 103 of these claims.

Claim 6

(1) The obviousness rejection is improper, because it relies on a combination of Winberg, Helmerson and Vialen to provide a feature of claim 1 not taught or suggested by that combination.

Claim 6 recites:

“the decision means being operative to control transfer of the call connection by the channel allocator between the dedicated channels and the shared channels dependent upon:

...a third input signal to the decision means indicating whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received.”

Accordingly, the result of the determination of whether or not the shared channels are in mode in which acknowledgement of receipt is required is utilized in deciding to make the transfer.

The cited Winberg, Helmerson and Vialen fail to teach or suggest the recited feature in claim 6 of a third signal indicating whether or not the shared channels are in a mode requiring acknowledgement of the data and the decision means deciding whether to make a transfer between dedicated and shared channels dependent on, among other factors, the result of that determination. Accordingly, Applicant requests withdrawal of the rejection and allowance of the claim.

The Examiner acknowledges that Winberg, modified by Helmerson, does not show a shared channel in a mode in which an acknowledgement is required but alleges that Vialen teaches a system that makes a decision for uses of common channel or

dedicated channel based on acknowledgement received in common channel RACH/RACH. See the Final office action dated 25 November 2009, page 5, 2nd full paragraph et seq.

(2) Vielen does not disclose the feature alleged.

Vielen apparently teaches a shared channel for which a control signal is required to switch to a dedicated channel. See column 2 lines 55-59. However, Vielen fails to teach or suggest a decision means deciding to make the transfer between channels dependent on whether there is an acknowledgement (of receipt of the data) mode and whether that mode is on or off. Vielen teaches deciding to make a transfer between a dedicated channel and a shared channel based on a plurality of other selection parameters, see e.g., Vielen column 4 lines 4 to 12, which refers to the decision being based on

“size of data packet; amount of data in RLC buffers or information obtained from higher layers about the amount of data to be transferred, bit rate required, allowable transfer delay, priority or importance of the data to be transferred, channel load, power level required for the transfer on the RACH, and maximum packet size transferable on the RACH.”

Further, Vielen also teaches the decision to use a shared channel or a dedicated channel being made with no radio interface signalling being required, see column 2 lines 61 to 63.

In sharp contrast, the claimed invention relates to a decision means deciding whether to transfer between channels based on the determination whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received. Based on the mode determined (and other determined variable values), the claimed apparatus decides to make the transfer.

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since Vialen discloses a system in which acknowledgements may be transferred on the forward link access channel (FACH), and Vialen teaches deciding to make a transfer between a dedicated channel and a shared channel based on a plurality of selection parameters,

Vialen teaches and discloses the decision based on a plurality of channel parameters, including when the common channel experiences more signal acknowledgements. See the Final office action dated 25 November 2009, page 5, 2nd full paragraph et seq.

However, Vialen fails to disclose or suggest that status of the acknowledgement mode (i.e., whether or not the shared channels require an acknowledgement of receipt to be received back before data is assumed to have been correctly received) being utilized as a parameter in the transfer between channels. In sharp contrast, as noted above, the claimed invention relates to a decision means deciding whether to transfer between channels based on an input signal indicating whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received. Based on the mode determined (and other determined variable values), the claimed apparatus decides to make the transfer.

(3) Neither Winberg nor Helmerston provide the missing feature.

In addition, Winberg teaches deciding to make the transfer dependent upon other factors, not those recited by the claimed invention. Specifically, Winberg teaches deciding whether to transfer between dedicated and shared channels based on buffer level threshold values, data throughput level threshold values, and time values, see Winberg column 4 lines 23-24 and column 5 lines 24-26. Helmerston is directed to a switching scheme in which users that are close to a base station are allocated a downlink shared channel in order to save channelization codes in the system, whereas users that are far from a base station are allocated a downlink dedicated channel in order to conserve transmission power. See Helmerston Abstract. Neither Winberg nor Helmerston suggest a decision means using an input signal indicating whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before

data is assumed to have been correctly received in deciding whether to switch between dedicated and shared channels.

It follows that since the cited references fail to teach or suggest this claim feature, the 35 U.S.C.103 rejection by the Examiner should be reversed by the Board.

Claims 7, 8 and 10

Claims 7, 8 and 10 depend from and include all the limitations of base claim 6. Accordingly, dependent claims 7, 8 and 10 are patentable not least on the basis that they each depend on an allowable independent claim 6. Therefore, Applicant respectfully requests that the Board reverse the Examiner's rejection under 35 USC 103 of these claims.

Claim 11

(1) The obviousness rejection is improper, because it relies on a combination of Winberg, Helmerson and Vialen to provide a feature of claim 1 not taught or suggested by that combination.

Claim 11 recites:

“decision means, a channel allocator, and a determinator,

the decision means adapted to control transfer of a call connection via the channel allocator between dedicated channels and shared channels dependent upon:

... a third input signal indicating whether or not the shared channels operate in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received.”

Accordingly, the result of the determination of whether or not the shared channels are in mode in which acknowledgement of receipt is required is utilized in deciding to make the transfer.

The cited Winberg, Helmerson and Vielen fail to teach or suggest the recited feature in claim 6 of an input signal indicating whether or not the shared channels are in a mode requiring acknowledgement of the data and the decision means deciding whether to make a transfer between dedicated and shared channels dependent on the result of that determination. Accordingly, Applicant requests withdrawal of the rejection and allowance of the claim.

The Examiner acknowledges that Winberg, modified by Helmersson, does not show a shared channel in a mode in which an acknowledgement is required but alleges that Vielen teaches a system that makes a decision for uses of common channel or dedicated channel based on acknowledgement received in common channel RACH/RACH. See the Final office action, page 5, 2nd full paragraph.

(2) Vielen does not disclose the feature alleged.

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Further, Vielen also teaches the decision to use a shared channel or a dedicated channel being made with no radio interface signalling being required, see column 2 lines 61 to 63.

In sharp contrast, the claimed invention relates to a decision means deciding whether to transfer between channels based on the determination whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received. Based on the mode determined (and other determined variable values), the claimed apparatus decides to make the transfer.

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Vialen teaches and discloses the decision based on a plurality of channel parameters, including when the common channel experiences more signal acknowledgements. See the Final office action, page 5, 2nd full paragraph.

However, Vialen fails to disclose or suggest that status of the acknowledgement mode (i.e., whether or not the shared channels require an acknowledgement of receipt to be received back before data is assumed to have been correctly received) being utilized as a parameter in the transfer between channels. In sharp contrast, as noted above, the claimed invention relates to a decision means deciding whether to transfer between channels based on an input signal indicating whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received. Based on the mode determined (and other determined variable values), the claimed apparatus decides to make the transfer.

(3) Neither Winberg nor Helmerston provide the missing feature.

In addition, Winberg teaches deciding to make the transfer dependent upon other factors, not all those recited by the claimed invention. Specifically, Winberg teaches deciding whether to transfer between dedicated and shared channels based on buffer level threshold values, data throughput level threshold values, and time values, see Winberg column 4 lines 23-24 and column 5 lines 24-26. Helmerston is directed to a switching scheme in which users which are close to a base station are allocated a downlink shared channel in order to save channelization codes in the system, whereas users that are far from a base station are allocated a downlink dedicated channel in order to conserve transmission power. See Helmerston Abstract. Neither Winberg nor Helmerston suggest a decision means using an input signal indicating determining whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received

back before data is assumed to have been correctly received in deciding whether to switch between dedicated and shared channels.

It follows that since the cited references fail to teach or suggest this claim feature, the 35 U.S.C.103 rejection by the Examiner should be reversed by the Board.

Claims 12 to 16

Claims 12 to 16 depend from and include all the limitations of base claim 11. Accordingly, dependent claims 12 to 16 are patentable not least on the basis that they each depend on an allowable independent claim 1. Therefore, Applicant respectfully requests that the Board reverse the Examiner's rejection under 35 USC 103 of these claims.

Conclusion

In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicants' attorney, David M. La Bruno, at **908 582 3190**.

Respectfully submitted,

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viii) **Claims Appendix**

1. **(Previously Presented)** A method of transfer of a call connection connecting a telecommunications base station and a mobile user terminal between dedicated channels in both directions therebetween and shared channels in both directions therebetween, comprising:

determining amount of data buffered at the base station and the user terminal for transmission therebetween and/or rate that data arrives at the base station and the user terminal for transmission therebetween;

determining a value of a measured parameter of signals between the base station and the user terminal, the parameter being signal attenuation or propagation delay; and

determining whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received;

deciding to make the transfer, dependent upon said value and upon said amount or rate, and upon said mode determined.

2. **(Original)** A method of transfer of a call connection according to claim 1, in which for a shared channel call connection, upon the parameter value being determined as being less than a predetermined threshold, transfer is made to dedicated channels.

3. **(Original)** A method of transfer of a call connection according to claim 1 or claim 2, in which for a dedicated channel call connection, upon the parameter value being determined as being more than a predetermined threshold, transfer is made to shared channels.

4. **(Canceled)**

5. **(Original)** A method of transfer of a call connection according to claim 1, in which the shared channels are a Random Access Channel (RACH) and a Forward Access Channel (FACH), the base station comprises a radio network controller, and the base station and user terminal operate to transfer the call connection in accordance with the Universal Mobile Telecommunication System (UMTS) standard.

6. **(Previously Presented)** A telecommunications system comprising a base station and a mobile user terminal, the base station and the user terminal being in use in call connection over dedicated channels or shared channels,

the base station comprising decision means, a channel allocator, and a processor,

the decision means being operative to control transfer of the call connection by the channel allocator between the dedicated channels and the shared channels dependent upon:

a first input signal to the decision means indicating amount of data buffered at the base station and the user terminal for transmission therebetween and/or rate that data arrives at the base station and the user terminal for transmission therebetween;

a second input signal to the decision means indicating value of a measured parameter of signals between the base station and the user terminal, the parameter being signal attenuation or propagation delay, the parameter value being determined by the processor; and

a third input signal to the decision means indicating whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received.

7. **(Original)** A telecommunications system according to claim 6, in which in use, for a shared channel call connection, upon the parameter value being determined as being less than a predetermined threshold, transfer is made to dedicated channels.

8. **(Original)** A telecommunications system according to claim 6, in which in use, for a dedicated channel call connection, upon the parameter value being determined as being more than a predetermined threshold, transfer is made to shared channels.

9. **(Canceled)**

10. **(Original)** A telecommunications system according to claim 6, in which the shared channels are a Random Access Channel (RACH) and a Forward Access Channel (FACH), the base station comprises a radio network controller and Node B, and the base station and user terminal operate to transfer the call connection in accordance with the Universal Mobile Telecommunication System (UMTS) standard.

11. **(Previously Presented)** A radio network controller comprising
decision means, a channel allocator, and a determinator,

the decision means adapted to control transfer of a call connection via the channel allocator between dedicated channels and shared channels dependent upon:

a first input signal indicating an amount of data buffered for transmission, a rate that data arrives for transmission, or both the amount of data buffered for transmission and the rate that data arrives for transmission;

a second input signal indicating a value of a parameter, the parameter being signal attenuation or propagation delay of transmitted signals, the value of the parameter being determined by the determinator; and

a third input signal indicating whether or not the shared channels operate in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received.

12. **(Previously Presented)** The radio network controller according to claim 11, in which, for a shared channel call connection, upon the value of the parameter being determined as being less than a predetermined threshold, the channel allocator indicates transfer is to be made to dedicated channels.

13. **(Previously Presented)** The radio network controller according to claim 11, in which, for a dedicated channel call connection, upon the value of the parameter being determined as being more than a predetermined threshold, the channel allocator indicates transfer is to be made to shared channels.

14. **(Previously Presented)** The radio network controller according to claim 11, in which the shared channels are a Random Access Channel (RACH) and a Forward Access Channel (FACH).

15. **(Previously Presented)** The radio network controller according to claim 11, further comprising:

a Node B, the Node B responsive to the channel allocator to transfer the call connection between dedicated channels and shared channels.

16 **(Previously Presented)** The radio network controller according to claim 11 wherein the call connection is transferred in accordance with the Universal Mobile Telecommunication System (UMTS) standard.

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ix) Evidence Appendix

None.

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x) **Related proceedings appendix**

None.